



## UNITED STATES PATENT AND TRADEMARK OFFICE

---

OFFICE

April 1, 2005

FREDERICK W. GIBB, III  
MCGINN & GIBB, PLLC  
2568-A RIVA ROAD  
SUITE 304  
ANNAPOLIS MD 21401

In re application of:

Robert J. Allen

Serial No.: 10/604962 & 10/604963

Filed: August 28, 2003

For: **THE USE OF A LAYOUT-OPTIMIZATION TOOL TO INCREASE THE YIELD  
AND RELIABILITY OF VLSI DESIGNS**

Dear Sir or Madam:

During the afternoon of August 28, 2003 the USPTO's EFS system did not properly process acknowledgment receipts due to a series of software changes. The unique software errors of that afternoon generated acknowledgement receipts that indicated to applicants that their patent application submissions were received with zero bytes, or otherwise indicated that the electronic submission failed.

Some applicants, on receiving that notice, attempted to resubmit the same application. These applications contained authorizations to charge filing fees to applicants' deposit accounts. However, in fact, the submissions had been accepted by the Office, and the filing fees were charged to the account multiple times with no indication being given to the applicant at the time.

Although usually the Office will not supply refunds when the applicant knowingly resubmits the same application, under the unique circumstances of August 28, 2003, and pursuant to 35 U.S.C. 42(d), the Office will grant refunds to applicants who were direct recipients of the erroneous EFS acknowledgement receipts, or were erroneously provided no acknowledgement receipt.

The software has since been corrected, and the error is not expected to reoccur. Additionally clear instructions have been posted on the EFS website indicating that if an error occurs in submission, as indicated by the information on the acknowledgement receipt or otherwise, the applicant is directed to contact the EFS Help Desk and not resubmit the application without checking that the original submission was not, in fact, received by the Office.



---

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

OFFICE

Instructions for your individual situation are attached. Please return the paper via:

**U.S. Patent and Trademark Office  
Mail Stop: Duplicates  
Commissioner for Patents  
Crystal Plaza 2, Room 7D25  
P.O. Box 1450  
Alexandria, VA 22313-1450**

Sincerely,

Jay Lucas  
Sr. Legal Advisor  
USPTO

1. Please review the application numbers that we suspect are duplicate submissions:

| <i>Submitter (DN)</i> | <i>Customer Name</i>  | <i>Cust #</i> | <i>App #</i> | <i>EFS ID</i> | <i>Submission Type</i> | <i>Payment Type</i> | <i>Payment Amount</i> |
|-----------------------|---|---------------|--------------|---------------|------------------------|---------------------|-----------------------|
| Richard M. Kotulak    | Frederick W. Gibb III   | 28211         | 10604962     | 46755         | New Utility            | Deposit Account     | \$1,000.00            |
| Richard M. Kotulak    | McGinn & Gibb PLLC<br>Frederick W. Gibb III<br>McGinn & Gibb PLLC | 28211         | 10604963     | 46757         | New Utility            | Deposit Account     | \$1,000.00            |

2. Please indicate below the one application from the list above that you would like to remain a submission to the USPTO.
3. Please indicate below the applications numbers to be deleted, and the refund to be credited.
4. Please give us instructions for crediting your credit card account number or deposit account number.